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June 25, 2003

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Office of Managing Director
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, DC 20554

Re: Oral *Ex Parte* Communication
CC Docket 96-45

Dear Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. Section 1.1206, we hereby provide you with notice of an oral *ex parte* presentation in connection with the above-captioned proceeding. On Monday, June 23, 2003, Elizabeth Kohler of Rural Cellular Corporation ("RCC") and undersigned counsel met with William Maher, Chief of the Wireline Competition Bureau, and Joshua Swift, Legal Counsel to the Bureau Chief, to discuss the possibility of equal access obligations being imposed on commercial mobile radio service ("CMRS") providers.

RCC discussed the fact that no party to date has identified any value that will accrue to consumers as a result of equal access being imposed. Today, there is no bottleneck to the wireless consumer of the kind that existed when equal access was imposed to provide interexchange carriers ("IXCs") with access to the local exchange customer. This is because there are multiple wireless carriers in each market, each of whom contracts with one or more IXCs for service, and thus IXCs have a number of opportunities to reach wireless customers.

Moreover, RCC's position as a provider of IXC services gives it a perspective that other wireless carriers may not have. In its IXC business, RCC's wholesale business customer is far more profitable than its retail business — even though wholesale prices are lower — simply because marketing, billing, and other overhead expenses associated with the retail market are absent in the wholesale arena. This is precisely why IXCs are not rushing in to demand access to retail wireless consumers. Nor has RCC observed consumer groups requesting the imposition of CMRS equal access.

RCC also stated that the Communications Act of 1934, as amended (the "Act") is very clear that equal access cannot be imposed on CMRS providers and that nothing in the universal service provisions of the Act overrides the very specific congressional directive contained in Title III. The FCC is prohibited from imposing equal access on a carrier engaged in the provision commercial mobile service "insofar as such [carrier] is so engaged." The position that CMRS providers who voluntarily seek ETC status can be subjected to equal access is completely without legal foundation. As a result, it is unclear how a decision to impose equal access could survive judicial review.

No party has identified any provision in the Act that overrides Congress's very specific directive contained in Section 332(c)(8) that the FCC cannot impose equal access on CMRS providers in the absence of a specific finding that (a) subscribers are denied access to the IXC of their choice, and (b) such denial is contrary to the public interest. Nothing contemplates imposition of equal access as a supported service without it first being required of all CMRS providers pursuant to the very specific provisions of Section 332(c)(8).

Finally, RCC discussed the difficulties in implementing equal access in a time when all CMRS providers bundle local and long distance. Rate plans including equal access will certainly have to be priced higher than those without equal access — simply because the end user's cost per minute for long distance will be higher than that which CMRS providers now offer through the substantial wholesale discounts they negotiate directly with IXCs.

Imposition of equal access as a supported service would not survive judicial review. Equal access is an ILEC-sponsored maneuver to place competitive weight on CMRS providers with no corresponding consumer benefit and, as such, would represent very poor public policy. For all of the above reasons, RCC urged the rejection of equal access as a supported service.

Sincerely,

/s/

David A. LaFuria
Counsel for Rural Cellular Corporation

cc: William Maher, Esq.
Joshua Swift, Esq.